

**STATE OF MINNESOTA  
DEPARTMENT OF COMMERCE**

Bulletin 2007-1  
Issued this day of January 19, 2007

**TO:** Insurers Providing Homeowners and No-Fault Automobile Insurance Policies in Minnesota

**SUBJECT:** Clarification of Statutes and Rules Related to insurance Arbitration Between  
Reparation Obligors and to Homeowners Insurance Claims Filed after the Sale  
of the Covered Property

**PURPOSE:** The Department of Commerce has recently examined the following issues related to homeowners insurance and no-fault automobile insurance coverage in Minnesota. The Department is circulating this Bulletin to assist insurers doing business in Minnesota in applying Minnesota law to similar coverage issues encountered by their companies.

**ISSUE 1:** What is the Committee on Insurance Arbitration referred to in Minnesota Rules 2770.3100-5200?

**CONCLUSION:** Claims arising under Minnesota Statutes § 65B.53, subd. 1 are enforceable "only through mandatory good-faith and binding arbitration procedures established by rule of the commissioner of commerce." Minnesota Rules 2770.3100-5200 were promulgated under the authority of § 65B.53, subd. 4 to establish the arbitration procedures.

The rules delegate the authority to implement the arbitration procedures to the Committee on Insurance Arbitration. However, the Committee on Insurance Arbitration no longer exists under that name. The Committee on Insurance Arbitration was incorporated in 1981 with the corporate name of Insurance Arbitration Forums, Inc. and later became known by its current name, Arbitration Forums, Inc., after a name change in 1986. As a result, the rules should be read with the understanding that Arbitration Forums, Inc. is the successor to the Committee on Insurance Arbitration.

In addition, Arbitration Forum Inc.'s authority to administer § 65B.53, subd. 4 arbitration proceedings is derived from the rules, not from industry agreements. Thus, whether an insurance company is a signatory member of an Arbitration Forums, Inc. forum is irrelevant for purposes of compulsory arbitration under § 65B.53, subd. 4 and the rules promulgated thereunder.

In sum, to arbitrate an indemnity claim arising under § 65B.53, subd. 1, the applicable arbitration procedures are in Minn. R. 2770.3100-5200, and these rules should be read with the understanding that Arbitration Forums, Inc. is the successor to the Committee on Insurance Arbitration.

**ISSUE 2:**

When a homeowner sells his/her home, does the seller's loss of an insurable interest in the home after closing bar a postsale claim for losses that occurred before the final acceptance date of the Purchase Agreement?

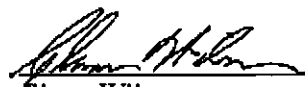
**CONCLUSION:** No. A party's rights to insurance proceeds are determined by the status of the party's interest in the property at the time of the loss, not at the time the claim is filed. A seller of a home is entitled to file a claim for a physical loss to the property even after closing on the sale of the home if the covered loss occurred prior to the sale of the property. An insurer may not refuse to pay the claim based solely on the fact that the seller sold the property.

**ISSUE 3:**

When a homeowner sells his/her home at a price that was not reduced to reflect undiscovered damage to the home, may the presale insurer of the home deny a postsale claim for losses that occurred before the final acceptance date of the Purchase Agreement on the ground that the seller did not incur any actual losses?

**CONCLUSION:** No. The insurer's liability for the amounts specified in the homeowners insurance policy attaches immediately upon the occurrence of the loss, unless the policy contains an exclusion triggered by the price realized by the seller in the sale of the home. The purchase price of the home, in and of itself, does not bear on the homeowners insurer's liability for the sellers' claim for damage occurring prior to the sale of the home.

If you have any questions concerning the issues discussed in this Bulletin, please contact Brett Borden at (651) 297-3977.

  
Glenn Wilson  
Commissioner of Commerce